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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,815	12/11/2001	Robert Fleming	ORACL-01045US1	5827
80548	7590	03/10/2009		
Fliesler Meyer LLP 650 California Street 14th Floor San Francisco, CA 94108			EXAMINER MEINECKE DIAZ, SUSANNA M	
			ART UNIT	PAPER NUMBER
			3692	
			MAIL DATE	DELIVERY MODE
			03/10/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Responsive Amendment

1. The reply filed on December 1, 2008 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s):

The Examiner asserted a rejection of all claims under 35 U.S.C. 102(b) based on an issue of public use or sale of the invention. By Applicant's own admission, the claimed invention was first implemented in BEA WebLogic Enterprise 5.0. The Examiner cited a press release for BEA WebLogic Enterprise 5.0 dated more than one year prior to Applicant's earliest priority date. Applicant currently argues that the press release does not provide sufficient evidence of public use or sale of the invention. The Examiner submits that, at the very least, the disclosure of BEA WebLogic Enterprise 5.0 was accessible to the public prior to Applicant's earliest priority date. The invention was publicly described in this article. BEA WebLogic Enterprise 5.0 was introduced at a symposium, as explained in the press release, thereby serving as further evidence of public disclosure and possibly intent to sell the product. Furthermore, Applicant and Assignee are in the best position to explain the intention of the press release in question and the timeline for public disclosure of, use of, and sale of BEA WebLogic Enterprise 5.0, yet Applicant and Assignee have yet to clarify this timeline. Applicant and Assignee have not provided a thorough response to the substance and nature of the press release itself, e.g., explaining how the claimed invention is different from BEA WebLogic Enterprise 5.0 or how the press release does not actually disclose the marketed embodiment of the claimed invention. Therefore, Applicant's response is not fully responsive to the last office action.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susanna M. Diaz/
Primary Examiner, Art Unit 3692